

AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 202

Introduced by Assembly Member Gonzalez

January 29, 2015

An act to add Section 2754 to the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 202, as amended, Gonzalez. Professional sports teams: cheerleaders: employee status.

Existing law prescribes comprehensive requirements relating to minimum wages, overtime compensation, and standards for working conditions for the protection of employees applicable to an employment relationship.

Existing law requires every employer who pays wages to a resident employee for services performed either within or without this state to deduct and withhold from those wages, except as provided, specified income taxes.

Existing law, the California Fair Employment and Housing Act, makes it an unlawful employment practice for an employer, unless based upon a bona fide occupational qualification or, except where based upon applicable security regulations to refuse to hire or employ a person or to refuse to select a person for a training program leading to employment, or to bar or discharge a person from employment or from a training program leading to employment, or to discriminate against a person in compensation or in terms, conditions, or privileges of employment because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition,

genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status of the person.

This bill would require that a California-based professional sports team that utilizes the services of cheerleaders, as defined, to provide those cheerleaders with specified rights and benefits afforded to its employees under existing employment laws, regardless of the terms and conditions under which the cheerleader performs. would, for purposes of all of the provisions of state law that govern employment, including the Labor Code, the Unemployment Insurance Code, and the California Fair Employment and Housing Act, require a cheerleader who is utilized by a California-based professional sports team during its exhibitions or games to be deemed an employee. The bill would also require the professional sports team to ensure that the cheerleader is classified and treated as an employee.

Because a violation of specified employment laws, including wage and hour laws, that would apply to California-based professional sports teams ~~using the services of~~ utilizing cheerleaders would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2754 is added to the Labor Code, to read:
- 2 2754. (a) ~~A professional sports team that is a California-based~~
- 3 ~~team that employs professional athletes, as those terms are defined~~
- 4 ~~in subdivision (g) of Section 3600.5, and that utilizes the services~~
- 5 ~~of cheerleaders during its exhibitions or games, shall provide those~~
- 6 ~~cheerleaders with all of the rights and benefits afforded to its~~
- 7 ~~employees under this code, regardless of the terms and conditions~~
- 8 ~~under which the cheerleader performs.~~
- 9 (b) ~~For purposes of this section, "cheerleader" is defined to~~
- 10 ~~mean an individual who performs acrobatics, dance, or gymnastic~~

1 exercises in promotion of a professional sports franchise identified
2 in subdivision (a):

3 2754. (a) For the purposes of this section, the following
4 definitions shall apply:

5 (1) “California-based team” means a team that plays a majority
6 of its home games in California.

7 (2) “Cheerleader” means an individual who performs
8 acrobatics, dance, or gymnastics exercises on a recurring basis.
9 This term shall not include an individual who is not otherwise
10 affiliated with a California-based professional sports team and is
11 utilized during its exhibitions or games no more than one time in
12 a calendar year.

13 (3) “Professional sports team” means a team at either a minor
14 or major league level in the sport of baseball, basketball, football,
15 ice hockey, or soccer.

16 (b) Notwithstanding any other law, for purposes of all of the
17 provisions of state law that govern employment, including this
18 code, the Unemployment Insurance Code, and the California Fair
19 Employment and Housing Act (Part 2.8 (commencing with Section
20 12900) of Division 3 of Title 2 of the Government Code), a
21 cheerleader who is utilized by a California-based professional
22 sports team during its exhibitions or games, shall be deemed to
23 be an employee.

24 (c) The professional sports team shall ensure that the
25 cheerleader is classified and treated as an employee.

26 SEC. 2. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.